

ASSEMBLY BILL

No. 690

Introduced by Assembly Member Campos

February 21, 2013

An act to amend Sections 53395, 53395.1, 53395.3, 53395.4, 53395.5, 53395.10, 53395.13, 53395.14, 53395.19, 53395.23, and 53395.24 of the Government Code, and to amend Section 33459 of the Health and Safety Code, relating to jobs and infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 690, as introduced, Campos. Jobs and infrastructure financing districts: voter approval.

Existing law authorizes a legislative body, as defined, to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public facilities, upon approval by $\frac{2}{3}$ of the voters. Existing law authorizes an infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to the infrastructure financing plan and agreement of affected taxing entities, as defined.

Existing law, the Polanco Redevelopment Act, authorizes a redevelopment agency to take any action that the agency determines is necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions.

This bill would revise and recast the provisions governing infrastructure financing districts and instead provide for the creation of jobs and infrastructure financing districts (JIDs) with 55% voter approval. The bill would authorize a public financing authority to enter

into joint powers agreements with affected taxing entities with regard to nontaxing authority or powers only. The bill would authorize a district to implement hazardous cleanup pursuant to the Polanco Redevelopment Act, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to do all of the
2 following:

3 (a) Establish a program that will enable local cities and counties
4 to form tax exempt financing authorities known as Job and
5 Infrastructure Districts (JIDs).

6 (b) To authorize JIDs to prepare comprehensive job creation
7 plans (JCP), the objective of which shall be to identify the targeted
8 industries that would be provided assistance in the form of property
9 tax increment financing to locate or expand within the JID.

10 SEC. 2. Section 53395 of the Government Code is amended
11 to read:

12 53395. ~~(a) The Legislature finds and declares that the~~ *The*
13 *Legislature finds and declares all of the following:*

14 (a) *The* state and federal governments have withdrawn in whole
15 or in part from their former role in financing major, regional, or
16 communitywide infrastructure, including highways and
17 interchanges, sewage treatment and water reclamation works, water
18 supply and treatment works, flood control and drainage works,
19 schools, libraries, parks, parking facilities, open space, and seismic
20 retrofit and rehabilitation of public facilities.

21 (b) ~~The Legislature further finds and declares that the~~ methods
22 available to local agencies to finance public works often place an
23 undue and unfair burden on buyers of new homes, especially for
24 public works that benefit the broader community.

25 (c) ~~The Legislature further finds and declares that the~~ absence
26 of practical and equitable methods for financing both regional and
27 local public works leads to a declining standard of public works,
28 a reduced quality of life and decreased safety for affected citizens,
29 increased objection to otherwise desirable development, and
30 excessive costs for homebuyers.

1 ~~The Legislature further finds and declares that it~~ *It is*
2 equitable and in the public interest to provide alternative procedures
3 for financing public works and services needed to meet the needs
4 of new housing and other development projects.

5 ~~(e) Approximately 85 percent of the state's general fund budget~~
6 *is generated by income tax and sales tax, which are derived from,*
7 *or are directly linked to, employment. Therefore, the state's*
8 *structural budget deficit will not be resolved unless private sector*
9 *investment is encouraged.*

10 ~~(f) Tax increment financing is recognized as a compelling and~~
11 *flexible financing tool for inducing private sector investment that*
12 *creates jobs and tax revenue for the state and for local*
13 *communities.*

14 ~~(g) Local prevailing wage job creating projects that use tax~~
15 *increment financing based on property tax have the potential to*
16 *return new income tax and sales tax revenue to the state on an*
17 *annual basis that would exceed to the incremental property tax*
18 *invested in the projects.*

19 SEC. 3. Section 53395.1 of the Government Code is amended
20 to read:

21 53395.1. Unless the context otherwise requires, the definitions
22 contained in this article shall govern the construction of this
23 chapter.

24 (a) "Affected taxing entity" means any governmental taxing
25 agency ~~which~~ *that* levied or had levied on its behalf a property tax
26 on all or a portion of the property located in the proposed district
27 in the fiscal year prior to the designation of the district, but not
28 including any county office of education, school district, or
29 community college district.

30 (b) "City" means a city, a county, or a city and county.

31 (c) "Debt" means any binding obligation to repay a sum of
32 money, including obligations in the form of bonds, certificates of
33 participation, long-term leases, loans from government agencies,
34 or loans from banks, other financial institutions, private businesses,
35 or individuals.

36 (d) "Designated official" means the city engineer or other
37 appropriate official designated pursuant to Section 53395.13.

38 (e) (1) "District" means ~~an~~ *a job and infrastructure financing*
39 *district.*

(2) ~~An~~ *A jobs and infrastructure* financing district is a “district” within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) ~~“Infrastructure”~~ *“Jobs and infrastructure”* financing district means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing public facilities.

(g) “Landowner” or “owner of land” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

(h) “Legislative body” means the city council or board of supervisors.

SEC. 4. Section 53395.3 of the Government Code is amended to read:

53395.3. (a) A district may finance (1) the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer ~~which~~ *that* satisfies the requirements of subdivision (b), (2) may finance planning and design work ~~which~~ *that* is directly related to the purchase, construction, expansion, or rehabilitation of that property, and (3) the costs described in Sections ~~53395.5, 53395.5~~ and 53396.5. A district may only finance the purchase of facilities for which construction has been completed, as determined by the legislative body. The facilities need not be physically located within the boundaries of the district. A district ~~may~~ *shall* not finance routine maintenance, repair work, or the costs of ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities of communitywide significance, which provide significant benefits to an area larger than the area of the district, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

1 (2) Sewage treatment and water reclamation plants and
2 interceptor pipes.

3 (3) Facilities for the collection and treatment of water for urban
4 uses.

5 (4) Flood control levees and dams, retention basins, and drainage
6 channels.

7 (5) Child care facilities.

8 (6) Libraries.

9 (7) Parks, recreational facilities, and open space.

10 (8) Facilities for the transfer and disposal of solid waste,
11 including transfer stations and vehicles.

12 (c) *The district shall be a local agency within the meaning of*
13 *subdivision (d) of Section 33459 of the Health and Safety Code*
14 *and may finance any actions necessary to implement the Polanco*
15 *Redevelopment Act (Article 12.5 (commencing with Section 33459)*
16 *of Chapter 4 of Part 1 of Division 24 of the Health and Safety*
17 *Code).*

18 (e)

19 (d) Any district ~~which~~ that constructs dwelling units shall set
20 aside not less than 20 percent of those units to increase and improve
21 the community's supply of low- and moderate-income housing
22 available at an affordable housing cost, as defined by Section
23 50052.5 of the Health and Safety Code, to persons and families of
24 low- and moderate-income, as defined in Section 50093 of the
25 Health and Safety Code.

26 SEC. 5. Section 53395.4 of the Government Code is amended
27 to read:

28 53395.4. (a) ~~A district may not include any portion of a~~
29 ~~redevelopment project area which is or has been previously created~~
30 ~~pursuant to Part 1 (commencing with Section 33000) of Division~~
31 ~~24 of the Health and Safety Code, whether the creation is or was~~
32 ~~proper or improper. A redevelopment project area may not include~~
33 ~~any portion of a district created pursuant to this chapter.~~

34 (b)

35 (a) A district may finance only the facilities or services
36 authorized in this chapter to the extent that the facilities or services
37 are in addition to those provided in the territory of the district
38 before the district was created. The additional facilities or services
39 may not supplant facilities or services already available within that

1 territory when the district was created but may supplement those
2 facilities and services as needed to serve new developments.

3 (e)

4 (b) A district may include areas ~~which~~ *that* are not contiguous.

5 SEC. 6. Section 53395.5 of the Government Code is amended
6 to read:

7 53395.5. It is the intent of the Legislature that the ~~area of the~~
8 ~~districts created be substantially undeveloped, and the~~
9 establishment of a district should not ordinarily lead to the removal
10 of existing dwelling units. If, however, any dwelling units are
11 proposed to be removed or destroyed in the course of private
12 development or public works construction within the area of the
13 district, the legislative body shall do all of the following:

14 (a) Within four years of the removal or destruction, cause or
15 require the construction or rehabilitation, for rental or sale to
16 persons or families of low or moderate income, of an equal number
17 of replacement dwelling units at affordable housing cost, as defined
18 in Section 50052.5 of the Health and Safety Code, within the
19 territory of the district if the dwelling units removed were inhabited
20 by persons or families of low or moderate income, as defined in
21 Section 50093 of the Health and Safety Code.

22 (b) Within four years of the removal or destruction, cause or
23 require the construction or rehabilitation, for rental or sale to
24 persons of low or moderate income, a number of dwelling units
25 which is at least one unit but not less than 20 percent of the total
26 dwelling units removed at affordable housing cost, as defined in
27 Section 50052.5 of the Health and Safety Code, within the territory
28 of the district if the dwelling units removed or destroyed were not
29 inhabited by persons of low or moderate income, as defined in
30 Section 50093 of the Health and Safety Code.

31 (c) Provide relocation assistance and make all the payments
32 required by Chapter 16 (commencing with Section 7260) of
33 Division 7 of Title 1, to persons displaced by any public or private
34 development occurring within the territory of the district. This
35 displacement shall be deemed to be the result of public action.

36 (d) Ensure that removal or destruction of any dwelling units
37 occupied by persons or families of low or moderate income not
38 take place unless and until there are suitable housing units, at
39 comparable cost to the units from which the persons or families
40 were displaced, available and ready for occupancy by the residents

1 of the units at the time of their displacement. The housing units
2 shall be suitable to the needs of these displaced persons or families
3 and shall be decent, safe, sanitary, and otherwise standard
4 dwellings.

5 SEC. 7. Section 53395.10 of the Government Code is amended
6 to read:

7 53395.10. A legislative body of a city may designate one or
8 more proposed *job and* infrastructure financing districts pursuant
9 to this chapter *in an area of high unemployment*. Proceedings for
10 the establishment of a district shall be instituted by the adoption
11 of a resolution of intention to establish the proposed district and
12 shall do all of the following:

13 (a) State that ~~an a~~ *job and* infrastructure financing district is
14 proposed to be established under the terms of this chapter and
15 describe the boundaries of the proposed district, which may be
16 accomplished by reference to a map on file in the office of the
17 clerk of the city.

18 (b) State the type of public facilities *and development* proposed
19 to be financed *or assisted* by the ~~district~~. ~~The district may only~~
20 ~~finance public facilities authorized by district in accordance with~~
21 Section 53395.3.

22 (c) *State the need for the district based upon the area*
23 *unemployment rate and the goals the district proposes to achieve.*

24 ~~(e)~~

25 (d) State that incremental property tax revenue from the city
26 and some or all affected taxing entities within the district may be
27 used to ~~finance these public facilities~~ *implement the job creation*
28 *plan adopted pursuant to Section 53395.14.*

29 ~~(d)~~

30 (e) Fix a time and place for a public hearing on the proposal.

31 SEC. 8. Section 53395.13 of the Government Code is amended
32 to read:

33 53395.13. After adopting the resolution pursuant to Section
34 53395.10, the legislative body shall designate and direct the ~~city~~
35 ~~engineer or other~~ appropriate official to prepare ~~an infrastructure~~
36 *a job creation plan (JCP)* pursuant to Section 53395.14.

37 SEC. 9. Section 53395.14 of the Government Code is amended
38 to read:

39 53395.14. After receipt of a copy of the resolution of intention
40 to establish a district, the official designated pursuant to Section

1 53395.13 shall prepare a proposed ~~infrastructure financing plan~~
2 ~~JCP~~. The ~~infrastructure financing plan~~ *JCP* shall be consistent
3 with the general plan of the city within which the district is located
4 and shall include all of the following:

5 (a) A map and legal description of the proposed district, which
6 may include all or a portion of the district designated by the
7 legislative body in its resolution of intention.

8 (b) A description of the public facilities required to serve the
9 development proposed in the area of the district including those
10 to be provided by the private sector, those to be provided by
11 governmental entities without assistance under this chapter, those
12 public improvements and facilities to be financed with assistance
13 from the proposed district, and those to be provided jointly. The
14 description shall include the proposed location, timing, and costs
15 of the public improvements and facilities.

16 (c) A finding that the public facilities are of communitywide
17 significance and provide significant benefits to an area larger than
18 the area of the district.

19 (d) A financing section, which shall contain all of the following
20 information:

21 (1) A specification of the maximum portion of the incremental
22 tax revenue of the city and of each affected taxing entity proposed
23 to be committed to the district for each year during which the
24 district will receive incremental tax revenue. The portion need not
25 be the same for all affected taxing entities. The portion may change
26 over time.

27 (2) A projection of the amount of tax revenues expected to be
28 received by the district in each year during which the district will
29 receive tax revenues, including an estimate of the amount of tax
30 revenues attributable to each affected taxing entity for each year.

31 (3) A plan for financing the public facilities to be assisted by
32 the district, including a detailed description of any intention to
33 incur debt.

34 (4) A limit on the total number of dollars of taxes ~~which that~~
35 may be allocated to the district pursuant to the ~~plan~~ *JCP*.

36 (5) A date on which the district will cease to exist, by which
37 time all tax allocation to the district will end. The date shall not
38 be more than 30 years from the date on which the ordinance
39 forming the district is adopted pursuant to Section 53395.23.

1 (6) An analysis of the costs to the city of providing facilities
2 and services to the area of the district while the area is being
3 developed and after the area is developed. The ~~plan~~ JCP shall also
4 include an analysis of the tax, fee, charge, and other revenues
5 expected to be received by the city as a result of expected
6 development in the area of the district.

7 (7) An analysis of the projected fiscal impact of the district and
8 the associated development upon each affected taxing entity.

9 (8) A plan for financing any potential costs that may be incurred
10 by reimbursing a developer of a project that is both located entirely
11 within the boundaries of that district and qualifies for the Transit
12 Priority Project Program, pursuant to Section 65470, including
13 any permit and affordable housing expenses related to the project.

14 (e) If any dwelling units occupied by persons or families of low
15 or moderate income are proposed to be removed or destroyed in
16 the course of private development or public works construction
17 within the area of the district, a plan providing for replacement of
18 those units and relocation of those persons or families consistent
19 with the requirements of Section 53395.5.

20 (f) *A formula that dictates that for every one million dollars*
21 *(\$1,000,000) invested, the JID shall create 10 prevailing wage*
22 *jobs.*

23 (g) *A plan to encourage public-private partnerships with*
24 *employers and developers for property acquisitions, building and*
25 *tenant improvements, and equipment purchases.*

26 SEC. 10. Section 53395.19 of the Government Code is amended
27 to read:

28 53395.19. (a) The legislative body shall not enact a resolution
29 proposing formation of a district and providing for the division of
30 taxes of any affected taxing entity pursuant to Article 3
31 (commencing with Section 53396) unless a resolution approving
32 the plan has been adopted by the governing body of each affected
33 taxing entity which is proposed to be subject to division of taxes
34 pursuant to Article 3 (commencing with Section 53396) has been
35 filed with the legislative body at or prior to the time of the hearing.

36 (b) Nothing in this section shall be construed to prevent the
37 legislative body from amending its infrastructure financing plan
38 and adopting a resolution proposing formation of the infrastructure
39 financing district without allocation of the tax revenues of any
40 affected taxing entity which has not approved the infrastructure

1 financing plan by resolution of the governing body of the affected
2 taxing entity.

3 *(c) A public financing authority may enter into a joint powers*
4 *agreement pursuant to Section 6500 with an affected taxing entity*
5 *to carry out the purposes of this chapter with regard to nontaxing*
6 *authority or powers only.*

7 SEC. 11. Section 53395.23 of the Government Code is amended
8 to read:

9 53395.23. After the canvass of returns of any election pursuant
10 to Section 53395.20, the legislative body may, by ordinance, adopt
11 the ~~infrastructure financing plan JCP~~ and create the district with
12 full force and effect of law, if ~~two-thirds~~ 55 percent of the votes
13 upon the question of creating the district are in favor of creating
14 the district.

15 SEC. 12. Section 53395.24 of the Government Code is amended
16 to read:

17 53395.24. After the canvass of returns of any election
18 conducted pursuant to Section 53395.20, the legislative body shall
19 take no further action with respect to the proposed infrastructure
20 financing district for one year from the date of the election if the
21 question of creating the district fails to receive approval by
22 ~~two-thirds~~ 55 percent of the votes cast upon the question.

23 SEC. 13. Section 33459 of the Health and Safety Code is
24 amended to read:

25 33459. For purposes of this article, the following terms shall
26 have the following meanings:

27 (a) "Department" means the Department of Toxic Substances
28 Control.

29 (b) "Director" means the Director of Toxic Substances Control.

30 (c) "Hazardous substance" means any hazardous substance as
31 defined in subdivision (h) of Section 25281, and any reference to
32 hazardous substance in the definitions referenced in this section
33 shall be deemed to refer to hazardous substance, as defined in this
34 subdivision.

35 (d) "Local agency" means a single local agency that is one of
36 the following:

37 (1) A local agency authorized pursuant to Section 25283 to
38 implement Chapter 6.7 (commencing with Section 25280) of, and
39 Chapter 6.75 (commencing with Section 25299.10) of, Division
40 20.

1 (2) A local officer who is authorized pursuant to Section 101087
2 to supervise a remedial action.

3 (3) *A job and infrastructure district.*

4 (e) “Qualified independent contractor” means an independent
5 contractor who is any of the following:

6 (1) An engineering geologist who is certified pursuant to
7 Section 7842 of the Business and Professions Code.

8 (2) A geologist who is registered pursuant to Section 7850 of
9 the Business and Professions Code.

10 (3) A civil engineer who is registered pursuant to Section 6762
11 of the Business and Professions Code.

12 (f) “Release” means any release, as defined in Section 25320.

13 (g) “Remedy” or “remove” means any action to assess, evaluate,
14 investigate, monitor, remove, correct, clean up, or abate a release
15 of a hazardous substance or to develop plans for those actions.
16 “Remedy” includes any action set forth in Section 25322 and
17 “remove” includes any action set forth in Section 25323.

18 (h) “Responsible party” means any person described in
19 subdivision (a) of Section 25323.5 of this code or subdivision (a)
20 of Section 13304 of the Water Code.